

JUDGE SCHOFIELD

14 CV 7876

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

THOMAS E. PEREZ, Secretary of Labor,
United States Department of Labor

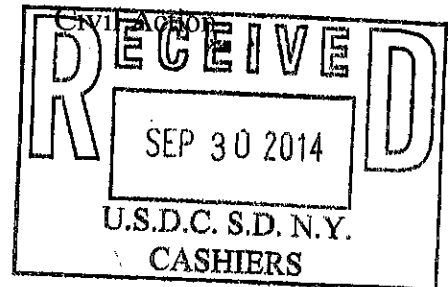
Plaintiff,

v.

DOWNTOWN RESTAURANT GROUP, LLC,
CHRIS REDA, Individually and as President

Defendants.

COMPLAINT



Plaintiff, THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor, brings this action under Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.), ("the Act"), alleging that defendants violated sections 6, 7, and 15(a)(2) of the Act.

I.

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act.

II.

Defendant DOWNTOWN RESTAURANT GROUP, LLC, is a limited liability company doing business as Griffin Nite Club., at 50 Gansevoort Street, New York, New York 10014, within the jurisdiction of this Court, where defendant is engaged in the bar/lounge and night club business.

III.

Defendant corporation has regulated the employment of all persons employed at Griffin Nite Club, acted directly and indirectly in its own interest in relation to the employees, and thus is an employer of such employees within the meaning of section 3(d) of the Act.

IV.

Defendant CHRIS REDA who does business at Griffin Nite Club, 50 Gansevoort Street, New York, New York 10014 within the jurisdiction of this Court, is an officer of defendant corporation, in active control and management of defendant corporation, regulates the employment of persons employed by defendant corporation, acts directly and indirectly in the interest of defendant corporation in relation to the employees, and is thus an employer of the employees within the meaning of section 3(d) of the Act.

V.

The business activities of the defendants are related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of section 3(r) of the Act.

VI.

Defendants employ employees at their place of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s) (1)(A) of the Act.

VII.

Defendants in many workweeks have violated the provisions of sections 6 and 15(a)(2) of the Act by employing employees at a rate less than those which are applicable under Section 6 of the Act. Therefore, defendants are liable for unpaid minimum wage compensation and prejudgment interest on the unpaid minimum wage compensation under section 17 of the Act.

VIII.

Defendants in many workweeks willfully and repeatedly have violated the provisions of sections 7 and 15(a)(2) of the Act by employing many of their employees employed in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than those prescribed in section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed.

Therefore, defendants are liable for unpaid overtime compensation and an amount in liquidated damages under section 16(c) of the Act.

IX.

Defendants since June 18, 2010, at times relevant to this matter, willfully and repeatedly have violated the provisions of the Act as alleged above.

WHEREFORE, cause having been shown, plaintiff prays for judgment against defendants providing the following relief:

(1) For an injunction issued pursuant to Section 17 of the Act permanently restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from violating the provisions of sections 6, 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and

(2) For an order pursuant to section 16(c) of the Act finding defendants liable for unpaid minimum wages and overtime compensation found due defendants' employees listed on the attached Exhibit A and liquidated damages; or

(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to section 17 of the Act restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. §6621; and

(4) For an order granting such other and further relief as may be necessary and appropriate.

DATED: September , 2014
New York, New York

/S/M. Patricia Smith

M. PATRICIA SMITH
Solicitor of Labor

/S/Jeffrey S. Rogoff

JEFFREY S. ROGOFF
Acting Regional Solicitor

/S/John G. Campbell

JOHN G. CAMPBELL
Counsel for Wage and Hour
JC (2125)

POST OFFICE ADDRESS:

Jeffrey S. Rogoff, Acting Regional Solicitor
Regional Solicitor
U.S. Department of Labor
201 Varick Street, Room 983
New York, New York 10014
Tel. (646) 264-3667
Fax (646) 264-3660

EXHIBIT A

1. Abreu, Cesar
2. Aguayza, Cesar
3. Alam, MD
4. Aponte, Ramessis
5. Baggio, Julianna
6. Bagnum, Rosna
7. Bhuiyan, Emdadul
8. Bravo, Genaro
9. Broady, Kelli
10. Capehart, Raquel
11. Cappella, Frank
12. Castagneto, Nicole
13. Castellanos, Jose Abel
14. Chavez, Serafin
15. Choudhury, Kamruzzaman
16. Cook, Daniela
17. Daneze, Paula
18. Dejesus, Baldomero
19. Del Castillo, Manuel
20. Flores Cuetlach, Marcial
21. Foley, Aisling
22. Gagnon, Mathew
23. Garcia, Gama
24. Garefino, Isaiah
25. Grigonis, John
26. Hussain, Amir
27. Hussain, Jamil
28. Ito, Al
29. Lopes, Cibella
30. Martinez, Jessica
31. Noaki, Retsu
32. Ofek, Aiellet
33. Ormaechea, Michelle Mabel
34. Pacheco, Marco
35. Ramirez, Ivan
36. Salazar, Christina
37. Saliasi, Pean
38. Santizlana, Andres
39. Sirol, Jessica
40. Tekdal, Pelin
41. Tremblay, Jenna
42. Uddin, Abdrup

- 43. Uddin, MD
- 44. Valencia, Brian
- 45. Van Seijen, Vianney
- 46. Vargas, Eulogio
- 47. Vujovic, Dusan
- 48. Wilson, Monika
- 49. Zou, Karen